

Serial No. 10/602,930

PATENT

REMARKS

In the Office Action dated 19th April 2005 claims 1 to 9, 12, 13, 22 and 23 are pending of which claims 1 to 9, 12, 13, 22 and 23 were rejected.

Specifically claim 1 is rejected under 35 USC 112, claims 1 to 3, 5 to 9, 22 and 23 are rejected under 35 USC 102(e) as being anticipated by Baker (US 6814748) and claims 12 and 13 are rejected under 35 USC 103(a) as being unpatentable over Baker (US 6814748) in view of Robinson (US5733325).

In response to the rejection under 35 USC 112 claim 1 is amended to cancel the word "them" and to replace it with the phrase "adjacent pairs of struts". This wording is specifically found on page 7 lines 8 and 9 of the specification as lodged. We submit that no new subject matter has been added. Claim 1 has also been amended to specify that each the fastenings includes at least two turns of an elongate flexible fiber. This wording is added from claim 2 which has been cancelled and is supported by the description at page 7 at five lines from the bottom of the page. This construction is also illustrated in Figure 3 for instance. We submit that no new subject matter has been added. Claim 1 is now, we submit, clear and not indefinite.

With respect to the rejection to claims 1 to 3, 5 to 9, 22 and 23 under 35 USC 102(e) as being anticipated by Baker (US 6814748) we submit that the reference Baker is attempting to overcome a different problem and provides a different solution. Figure 19 to which the Examiner refers us does not consider the situation of a stent which is "affixed to and extending from the graft material" (claim 1 line 2) but the stent 202 is essentially entirely on the graft material with only a part of one of its bends (A1 to A8) on the edge of the graft material. The problem faced by Baker was not to retain a stent which may be subject to a loading of a large number of Newtons due to fixation barbs on the stent as is faced with the present invention. The problem face by Baker was to retain a stent onto graft material where the stent was not welded. The closest Baker comes to the problem

- 5 -

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Serial No. 10/602,930

PATENT

of the present invention in Figure 19 is the mounting of the V shaped lumen piercing members (274) with barbs on them. The solution is, however, quite different in that the barbs are passed through the graft material rather than being solely stitched as is discussed in column 21 line 54 to column 22 line 37. For these reasons we submit that Baker does not anticipate the present invention.

We do note that Baker discloses stents which affixed to and extending from the graft material in for instance, Figures 24 to 26, but the discussion accompanying these figures does not teach a method of fastening the stent to the graft material as is claimed in the present invention. For this further reason we submit that Baker does not anticipate the present invention.

We further note that the specific suture patterning disclosed in Baker in relation to Figures 19 and 21 is different than that now specifically claimed in Claim 1. So far as can be understood from the illustrations it appears that at the apex B7, for instance, two single knots are used. This is different than in claim 1 of the present invention where each fastening includes "at least two turns of an elongate flexible fibre through the graft material and around a portion of the stent" (claim 1 lines 5 and 6). For this further reason we submit that Baker does not anticipate the present invention as claimed in claim 1.

For all these reasons we submit that claim 1 is novel and not anticipated by Baker and that this reference should be withdrawn.

Claims 3, 5 to 9, 22 and 23 are also rejected under 35 USC 102(e) as being anticipated by Baker (US 6814748) but we submit that, as these claims all depend upon a claim which is novel and not anticipated by Baker, then these claims are also novel and not anticipated.

Serial No. 10/602,930

PATENT

Claims 12 and 13 are rejected under 35 USC 103(a) as being unpatentable over Baker (US 6814748) in view of Robinson (US5733325) but we submit that as these claims all depend upon a claim which is novel and not anticipated by Baker then these claims are also patentable.

We note that no specific objection has been raised against claim 4 and we submit that as this claim depends upon a claim which is novel and not anticipated by Baker then this claim is also novel and not anticipated.

Although the foregoing discussion is believed to be dispositive of the issues in this case, applicants' attorney requests a telephone interview with the Examiner to further discuss any unresolved issues remaining after the Examiner's consideration of this amendment and response.

Respectfully submitted,

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